

Pathway Investments Pty Ltd and Doystoy Pty Ltd v National Australia Bank Limited

Supreme Court of Victoria proceeding S CI 2010 6249

(NAB Class Action)

SETTLEMENT SCHEME

1. Background:

- A. This Settlement Scheme establishes a procedure for verifying and distributing to Group Members the sum to be paid by National Australia Bank Limited pursuant to a settlement of the NAB Class Action approved by the Court.
- B. This Settlement Scheme does not become operative until the Court has granted Settlement Approval.
- C. This Settlement Scheme provides for the following major steps:
 - (i) Maurice Blackburn will be appointed as Administrator of this Scheme (clause 4);
 - (ii) Late Registrants must deliver to Maurice Blackburn a statutory declaration explaining the reason for their late registration. A process is established for determination of those registrations (clause 5);
 - (iii) Registrants must return a properly executed Participant Declaration (clause 6);
 - (iv) Maurice Blackburn will notify each Registrant that returns a Participant Declaration (thereafter referred to as “Participants”) of their estimated Distribution and give them an opportunity to notify any objections to it (clause 7) and for those objections to be referred to Independent Counsel (clause 8);
 - (v) Interest on the Settlement Distribution Fund shall be applied to the extent necessary to payment of Administration Costs (clause 9);
 - (vi) ILFP will notify Maurice Blackburn of the amount of the payment which each Participant is required to make to it pursuant to either the funding

agreement between ILFP and that Participant or the Orders of the Court dated 24 August 2012 (clause 10.2);

- (vii) Maurice Blackburn will deduct from the Settlement Distribution Fund the Plaintiff's Costs and Disbursements, the Plaintiff's Reimbursement Payments, any Administration costs outstanding and then from the balance shall distribute the Settlement Distribution Fund between Participants, after paying to ILFP the amounts payable out of each Participant's allocation (clause 11).

2. Definitions

- 2.1 In this Settlement Scheme, the following terms have the meanings defined below (clause references are references to the clauses of this document unless otherwise specified):

Act means the *Supreme Court of Victoria Act 1986* (Cth).

Administrator means Maurice Blackburn Pty Ltd acting as the Court appointed administrator of the Settlement Scheme.

Administration Costs means the costs and disbursements incurred by Maurice Blackburn and approved by the Court at the current rates in Schedule A of the retainer between the Plaintiffs and Maurice Blackburn in connection with the applications under clause 7 of the Class Action Settlement Deed, the identification of Registrants, obtaining Settlement Approval or administering the Settlement Scheme, including without limitation, counsel's and expert's fees.

Amended Notice of Estimated Distribution means a notice issued pursuant to clause 7.4 of the Settlement Scheme.

Amended Statement of Claim means the amended statement of claim filed in the proceedings on 28 August 2012.

Assessment means the value of a Participant's loss calculated in accordance with clause 7 of the Settlement Scheme, or as assessed by Independent Counsel in accordance with clause 8 of this Settlement Scheme.

ASX means the Australian Securities Exchange operated by ASX Limited.

Claims means any and all claims (present and future and including any claim for costs) of the Plaintiffs or any Group Member arising out of, or in connection with the Proceeding or the subject matter of the Proceeding.

Claim Data means the following information for each Registrant:

- (a) the Registrant's name;
- (b) the Registrant's address; and
- (c) for each of the Registrant's holdings of NAB Shares:
 - (i) the balance of NAB Shares owned at 12.01 am on 1 January 2008; and
 - (ii) the transaction date and the number of securities acquired or disposed for all acquisitions and disposals of NAB Shares in the Relevant Period.

Claim Database means a database constructed by or on behalf of Maurice Blackburn Pty Ltd to contain the Claim Data for each Registrant.

Court means the Supreme Court of Victoria.

Distribution means an amount of money distributed to a Participant from the Settlement Distribution Fund.

Final Assessment means:

- (a) where a Participant has not made a request for a Review pursuant to clause 8, the Assessment; or
- (b) an Assessment contained in a Review Determination under clause 8.

Funding Agreement means the current funding agreement between ILFP and each individual Original Group Member relating to the Proceeding.

Funding Commission means the amount payable to ILFP by:

- (a) each Original Group Member pursuant to the terms of each Original Group Member's Funding Agreement with ILFP, as notified by ILFP to Maurice Blackburn Pty Ltd under clause 10.2 of this Settlement Scheme; and
- (b) each Registered Group Member pursuant to paragraph 22 of the Orders of the Court dated 24 August 2012.

Group Member means a group member within the meaning of paragraph 1 of the Amended Statement of Claim.

ILFP means International Litigation Funding Partners Pte Ltd.

Independent Counsel means either Tim McEvoy of the Victorian Bar, Richard J Harris of the Victorian Bar, or nominee of Maurice Blackburn Pty Ltd who shall be an Australian barrister admitted to practice for 10 years with no previous involvement in the Proceeding.

Interest means interest accruing on the Nominated Account and/or the Settlement Distribution Fund.

Late Registrant means a person who delivered a Registration Form to Maurice Blackburn after 4.00 pm, Australian Eastern Daylight Savings Time on 12 October 2012.

Loss Assessment Formula means the formula by which losses are calculated as contained in the Confidential Schedule of this Settlement Scheme.

Maurice Blackburn Pty Ltd means Maurice Blackburn Pty Ltd (ABN 21 105 657 949).

NAB means National Australia Bank Limited (ACN 004 044 937).

NAB Shares means ordinary full-paid shares of NAB.

Notice of Claim Data means the notice required by clause 6.2 of this Settlement Scheme to be sent by the Administrator to each Registrant.

Notice of Estimated Distribution means the notice required by clause 7.3 of this Settlement Scheme to be sent by the Administrator to each Participant.

Notice to Late Registrants means a notice to Late Registrants informing them of the requirements of clause 5.2.

Original Group Member (or OGM) means each Group Member who or which had, as at the commencement of the Proceeding, entered a litigation funding agreement in respect of the Proceedings with ILFP.

Participant means a Registrant who has made and delivered to the Administrator a valid Participant Declaration within 21 days of a Notice of Claim Data being issued to that Registrant.

Participant Declaration means a Statutory Declaration stating that the person making the declaration:

- (a) is, or is authorised to represent, a Registrant;
- (b) either:
 - (i) confirms the Claim Data in the Notice of Claim Data pertaining to the Registrant; or
 - (ii) provides amended or corrected Claim Data pertaining to the Registrant;and
- (c) confirms that, to the person's knowledge, no other person has sought or will seek to receive a Distribution on the basis of the same acquisitions of NAB Shares as those listed in the Registrant's Claim Data.

Plaintiffs means Pathway Investments Pty Ltd (ACN 072 420 065) and Doystoy Pty Ltd (ACN 130 593 609).

Plaintiffs' Costs and Disbursements means the Plaintiffs' reasonable legal costs and disbursements on a solicitor and own client basis (calculated in accordance with each of the Plaintiffs' retainer of Maurice Blackburn) incurred on their own behalf and on behalf of all Group Members in the Proceeding.

Plaintiffs' Reimbursement Claims means the Plaintiffs' reasonable claims, subject to approval of the Court, for compensation for the time or expenses incurred in the interests of prosecuting the Proceeding on behalf of Group Members as a whole.

Preliminary Payment means the payments made in accordance with clause 11.4.

Proceeding means *Pathway Investments Pty Ltd & Doystoy Pty Ltd v National Australia Bank Limited*, Supreme Court of Victoria proceeding number S CI 2010 6249.

Registrant means:

- (a) an Original Group Member; or
- (b) a Registered Group Member.

Registered Group Member (or RGM) means a group member who or which returned a Registration Form to Maurice Blackburn Pty Ltd by 4.00 pm Australian Eastern

Daylight Savings Time, on 12 October 2012 pursuant to the Orders of the Court dated 24 August 2012.

Registration Form means a Registration Form within the meaning of paragraph 3 of the orders of the Court dated 24 August 2012.

Related Parties means the related bodies corporate of a party as define in the *Corporations Act 2001* (Cth) and the present and former directors, officers, partners, servants, contractors, insurers and agents of a party.

Relevant Period means the period from 1 January 2008 to 24 July 2008 inclusive.

Residual Settlement Amount means the amount of the Settlement Amount after deduction of the Plaintiffs' Costs and Disbursements, the Plaintiffs' Reimbursement Costs and Administration Costs.

Review means the procedure provided in the Settlement Scheme for Independent Counsel to finally determine any objection to a Notice of Estimated Distribution.

Review Determination means written determination of Independent Counsel providing notice to the Participant and the Administrator of the calculation and the result of the Review.

Settlement Amount means the amount of \$115,000,000.00.

Settlement Approval means the approval of the terms of settlement of the Proceeding and the Settlement Scheme by the Court pursuant to section 33V of the Act.

Settlement Approval Date means the date on which orders are made in the Proceeding granting Settlement Approval.

Settlement Deed means the deed of settlement executed on 9 November 2012 between the Plaintiffs, Maurice Blackburn Pty Ltd, International Litigation Funding Pte Ltd and NAB.

Settlement Distribution Fund has the meaning defined in clause 1.2 of the Settlement Deed.

Settlement Scheme means the terms of this Settlement Scheme as approved by the Court, including any annexures.

Settlement Reserve Fund has the meaning defined in clause 1.2 of the Settlement Deed.

Statutory Declaration means either:

- (a) a statutory declaration made pursuant to the Statutory Declarations Act 1959 (Cth); or
- (b) a declaration made by a person outside of Australia:
 - i. which contains an acknowledgement that it is true and correct and is made in the belief that a person making a false declaration is liable for a penalty; and
 - ii. for which, under the law of the place it is made, the person would be liable for a penalty if the person knowingly made a false declaration.

3. Interpretation

3.1 Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise:

- (i) the singular includes the plural, and the converse also applies;
- (ii) a gender includes all genders;
- (iii) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (iv) a reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
- (v) a reference to *dollars* and \$ is to Australian currency;
- (vi) a reference to any thing done by any person includes a reference to the thing as done by a director, officer, servant, agent, personal representative or legal representative if permitted to be so done by law or by any provision of the Settlement Deed or this Settlement Scheme.

4. Scheme Administrator

- 4.1 The Settlement Distribution Fund shall be administered and applied by Maurice Blackburn as Administrator.
- 4.2 In acting as Administrator (including any incidental functions) Maurice Blackburn will be lawyers working as the Administrator with an obligation to do so properly on behalf of the Group Members as a whole, and shall not act as the lawyer for any individual Group Member (or sub-group of Group Members) in relation to his, her or its claim.
- 4.3 Following Settlement Approval and payment of the Settlement Sum into the Settlement Distribution Fund, the Administrator shall hold the monies standing from time to time in the Settlement Distribution Fund on trust for Participants subject to and in accordance with the terms of this Settlement Scheme.
- 4.4 In consideration of the provisions made by the Settlement Deed and this Settlement Scheme regarding the payment of Administration Costs, Maurice Blackburn undertakes not to seek to recover from the Settlement Sum, the Settlement Distribution Fund or from any individual Group Member any costs incurred in connection with the Claims of the individual Group Member, except as otherwise provided in this Settlement Scheme. All such costs whether incurred prior to Settlement Approval or after Settlement Approval shall form part of the Administration Costs.
- 4.5 Notwithstanding anything elsewhere contained in this Settlement Scheme, the Administrator may at any time correct any error, slip or omission occurring in the course of its administration of the Settlement Scheme.

5. Late Registrants

- 5.1 As a soon as practicable after the Settlement Approval Date, the Administrator shall issue a Notice to Late Registrants to each Late Registrant.
- 5.2 Each Late Registrant wishing to receive a Distribution must, within 14 days of the Notice to Late Registrants, deliver to the Administrator a Statutory Declaration stating the reasons that the Late Registrant did not submit a Registration Form by 4.00 pm, 12 October 2012.
- 5.3 Upon receipt of a Statutory Declaration from a Late Registrant referred to in clause 5.2, the Administrator must review the Statutory Declaration and if the Administrator decides that it would not be just and reasonable to allow the Late Registrant to

receive a Distribution, must notify the Late Registrant of that decision, the reasons for that decision and of the process for determination of the question by the Court provided by clause 5.4.

5.4 If, within 14 days of being notified of the decision referred to in clause 5.3, a Late Registrant notifies the Administrator that it wishes to have the issue of its eligibility to receive a Distribution determined by the Court, the Administrator must:

- (a) apply to the Court for orders that the Late Registrant not receive a Distribution;
- (b) file an affidavit exhibiting the Statutory Declaration received from that Late Registrant (in addition to any other material the Administrator considers necessary to include in such affidavit);
- (c) provide a copy to the Late Registrant of any material it files in support of the application; and
- (d) if the Court determines to conduct a hearing on the application, within one business day of being informed of date, time and place of the hearing, notify the Late Registrant of that date, time and place.

5.5 For the avoidance of doubt, for the purposes of the process provided by clause 5.4, the Administrator may apply for orders and file material relating to more than one Late Registrant at a time.

5.6 Any of the Administrator's costs in relation to the process provided by clause 5.4, including preparation for and attendance at any hearing or appeal, shall be Administration Costs.

5.7 If, in relation to a Late Registrant:

- (a) the Administrator decides, in its absolute discretion, upon review of a Statutory Declaration referred to in clause 5.2 that it is just and reasonable to allow the Late Registrant to receive a Distribution; or
- (b) the Court declines to make orders of the kind referred to in clause 5.4(a)

that Late Registrant shall be taken thereafter to be a Registered Group Member for all the purposes of this Settlement Scheme.

5.8 If, in relation to a Late Registrant:

- (a) the Late Registrant does not provide a Statutory Declaration within 14 days of the Notice to Late Registrants;
- (b) the Late Registrant does not, within 14 days of being notified of the decision referred to in clause 5.3, notify the Administrator that it wishes to have the issue of its eligibility to receive a Distribution determined by the Court; or
- (c) the Court orders that the Late Registrant not receive a Distribution

the Late Registrant shall not be entitled to receive a Distribution and shall not be required to receive any further notices under this Settlement Scheme.

6. Confirmation of Claim Data

- 6.1 As soon as practicable after the Settlement Approval Date, the Administrator shall create and subsequently maintain the Claim Database. At all times, the Administrator must use reasonable endeavours to ensure the accuracy of the Claim Database including, to the extent necessary, requesting further information or documents from a Registrant or requesting further information or documents from NAB.
- 6.2 As soon as practicable after the completion of the process in relation to Late Registrants described in clauses 5.7 and 5.8, the Administrator will issue to each Registrant a Notice of Claim Data which will list all the Claim Data pertaining to that Registrant that is contained in the Claim Database.
- 6.3 Each Registrant wishing to receive a distribution of the Settlement Distribution Fund must provide to the Administrator within 21 days of the Notice of Claim Data an executed Participant Declaration which either:
 - (a) declares that the information in the Notice of Claim Data is true and correct; or
 - (b) provides amended or corrected Claim Data and declares that such amended or corrected Claim Data is true and correct.
- 6.4 Any Registrant that does not make and deliver to the Administrator a valid Participant Declaration within 21 days of the Notice of Claim Data shall not be entitled to receive a Distribution and shall not be required to receive any further notices under this Settlement Scheme.

- 6.5 Subject to clause 6.6, for the purpose of the administration of this Settlement Scheme, Claim Data confirmed by a Participant Declaration may be relied upon as accurate by the Administrator, in its absolute discretion, when administering the Settlement Scheme.
- 6.6 Notwithstanding clause 6.4 if in the Administrator's opinion a Participant Declaration:
- (a) contains insufficient information to substantiate the claim made by a Registrant or is not a valid Participant Declaration, the Administrator may in its absolute discretion by written notice require the Registrant to provide and verify by a Statutory Declaration such further information as the Administrator may require or to make and deliver a new and valid Participant Declaration. If the Registrant does not provide the further information or new Participant Declaration within 14 days of such a request being made, the Administrator may determine, in its absolute discretion, that the person is not entitled to receive a Distribution and, save for notice of that determination, shall not be required to receive any further notices under this Settlement Scheme; or
 - (b) contains sufficient information notwithstanding that some information may not be included, the Administrator may in its absolute discretion accept the Claim Data as complete.

7. Assessment of Claims and provision of Notice of Estimated Distribution

- 7.1 As soon as practicable following the confirmation of the Claim Data as provided for in clause 6, the Administrator shall calculate the Assessment of each Participant's Claim using the Claim Data in the Claim Database.
- 7.2 The Assessment for each Participant shall be calculated by applying the Loss Assessment Formula to that Participant's Claim Data.
- 7.3 As soon as practicable after calculating the Assessment for each Participant, the Administrator will send a Notice of Estimated Distribution to each Participant notifying the person of:
- (a) the Claim Data relating the Participant;
 - (b) the Administrator's reasonable estimate of the Participant's Distribution;
 - (c) the applicable rate of Funding Commission payable by the Participant;

- (d) the terms of clauses 7.4 and 7.5 below;
- (e) the availability and terms of the Review procedure in clause 8; and
- (f) any other information that the Administrator considers would assist Participants in determining whether to seek a Review.

7.4 If, within 21 days of the Notice of Estimated Distribution, a Participant notifies the Administrator of any error, slip or omission in the Notice of Estimated Distribution, the Administrator may, in its absolute discretion, correct the Claim Database and issue to that Participant, and any other Participant affected by the correction if that other Participant's estimated Distribution is reduced by more than 5 per cent, an Amended Notice of Estimated Distribution.

7.5 The accuracy of a Notice of Estimated Distribution or Amended Notice of Estimated Distribution shall be deemed to be accepted by a Participant unless the Participant:

- (a) within 21 days of the date of a Notice of Estimated Distribution, or
- (b) within 14 days of the date of an Amended Notice of Estimated Distribution,

delivers to the Administrator a written request for a Review together with copies of all documents on which the Participant relies for the purposes of the Review, including any statement of reasons for seeking the Review.

8. Review

8.1 If a Participant requests a Review of a Notice of Estimated Distribution or an Amended Notice of Estimated Distribution, the Administrator shall refer the request to Independent Counsel or the Court as the Administrator considers appropriate.

8.2 If a request for a Review is referred to the Independent Counsel, the Independent Counsel may by written notice direct the Participant to submit such further documentation in support of the Review as the Independent Counsel may consider appropriate. Such documentation must be submitted within 14 days after the date of any such written notice, failing which the request for Review shall be deemed never to have been made and the accuracy of the Notice of Estimated Distribution or the Amended Notice of Estimated Distribution shall be deemed to be accepted by the Participant.

- 8.3 Independent Counsel shall, within 14 days after either the receipt by the Administrator of the request for the Review or the last date for receipt of documentation required pursuant to any direction given by Independent Counsel under clause 8.2 above, whichever is later:
- (a) calculate the Assessment of the Participant according to the methodology prescribed in clause 7.2 above; and
 - (b) in writing notify the Participant and the Administrator of the calculation and the result of the Review.
- 8.4 A Review Determination is final and binding, save that, prior to the expiry of 7 days after notice is given of the Review Determination, the Participant has liberty to apply to the Court on a question of law arising from the Review Determination.
- 8.5 The Participant requesting a Review shall pay the costs of the Review calculated at \$800 exclusive of GST for the first 2 hours' attendance by Independent Counsel (or any part thereof) and \$450 per hour exclusive of GST for each subsequent hour.
- 8.6 Independent Counsel may require a Participant to provide to the Administrator security for the costs of a Review, in such amount as Independent Counsel reasonably estimates will be the cost of the review. If security is not provided as required within 10 days of the date on which written notice requiring provision of security was sent to the Participant requesting the Review, Independent Counsel shall issue a Review Determination confirming the Participant's Notice of Estimated Distribution or Amended Notice of Expected Distribution, noting that the security has not been provided as required.
- 8.7 If any costs of a Review have not been paid by the Participant before any distribution to that Participant, the Administrator shall deduct those costs from any sum which otherwise would be distributed to the Participant in priority to all other entitlements. That Participant shall remain liable for any costs not recovered by a deduction pursuant to this clause and the Administrator, in administering the Settlement Scheme, may apply to the Court for an order requiring the Participant to pay those costs.

9. Application Of Interest

- 9.1 Interest earned on the Settlement Distribution Fund will be applied to Payment of Administration Costs if and to the extent that such costs:

- (a) are not paid by NAB pursuant to the Settlement Deed; and
- (b) are approved by the Court.

9.2 Subject to clause 9.1, the Plaintiffs' Costs, the Administration Costs and the Plaintiffs' Reimbursement Payment shall be paid from the Settlement Distribution Fund before the final distribution of the Settlement Distribution Fund.

10. Notification of ILFP Payments

10.1 Not later than 14 days prior to any Distribution, the Administrator shall notify ILFP of:

- (a) the intended date of the Distribution;
- (b) the allocation to be made in respect of each Participant in accordance with clause 11.3 below; and
- (c) the total number of NAB Shares acquired by each Participant according to the Claim Database.

10.2 Not later than 7 days prior to the intended date of the distribution, ILFP will notify the Administrator of the Funding Commission payable to ILFP by each Participant pursuant to:

- (a) for Original Group Members, the Original Group Member's funding agreement with ILFP; and
- (b) for Registered Group Members, paragraph 22 of orders of the Court dated 24 August 2012.

10.3 The Administrator shall be bound for all purposes at law and in equity to act in accordance with the notification given by ILFP under this clause 10.

10.4 The Administrator is immune from any demand, claim or suit, at law or in equity, by Participants in respect of any loss or damage arising as a result of any payment made by the Administrator to ILFP in accordance with a notification or direction from ILFP made pursuant to clause 10.

11. Distribution

11.1 Subject to clause 11.4, prior to any distribution from the Settlement Distribution Fund to Participants the following payments shall be made from the Settlement Distribution Fund:

- (a) an amount to the Plaintiffs for the Plaintiffs' Costs and Disbursements;
- (b) an amount to each Plaintiff for each Plaintiff's Reimbursement Payment; and
- (c) an amount to the Administrator for Administration Costs incurred by the Administrator subject to clause 9.

11.2 Once the payments referred to in clause 11.1 are made, the amount in the Settlement Distribution Fund, referred to as the Residual Settlement Amount, shall then be distributed in accordance with this clause 11.

11.3 The Residual Settlement Amount shall be distributed to Participants as follows:

- (a) the Residual Settlement Amount shall be allocated between Participants in the proportion which the Final Assessment of each Participant bears to the aggregate of the Final Assessments for all Participants;
- (b) the relevant Funding Commission shall be deducted from the allocations for each Participant and paid to ILFP; and
- (c) following confirmation from ILFP that it has received the Funding Commission the balance of each Participant's allocation will be distributed to each Participant.

11.4 Notwithstanding clause 11.1 above, if at any time in respect of the Participant:

- (a) no Review has been requested, or all Review Determinations have been issued; or
- (b) the highest reasonable estimate of the value of the Assessments still awaiting the determination of Final Assessment is less than 20% of the amount total of all Participants Assessments available for distribution to the Participants;

the Administrator in its absolute discretion may make a Preliminary Payment to Participants by distribution from the Settlement Distribution Fund, but shall hold back an amount not less than double the highest reasonable estimate of the Assessments still awaiting the determination of Final Assessment, plus its highest

reasonable estimate of the Administration Costs likely to be incurred prior to the final distribution of the Settlement Distribution Fund. For the avoidance of doubt, any such Preliminary Payment:

- (a) may be made prior to the determination of the Final Assessments of all Participants; but
- (b) may not be made to a Participant until the determination of the Final Assessment of that Participant's claim and ILFP has been paid the ILFP Payment in respect of the Participant.

11.5 Subject to clause 11.1, other than a Preliminary Payment made under the proceeding clause, no distribution shall be made from the Settlement Distribution Fund until the Final Assessment of every Participant has been determined and the Administration Costs and the ILFP Payment has been paid in full.

11.6 If a Preliminary Payment has been made, any Administration Costs incurred after the date of the Preliminary Payment shall be paid to the Administrator prior to the final distribution of the remaining amount in the Settlement Distribution Fund.

11.7 If, after the final distribution of the Settlement Distribution Fund to Participants, any amount remains or is held in the Settlement Distribution Fund, such as further interest amounts accrued prior to the final distribution but received after the final distribution, the amount shall be distributed *pro rata* amongst the Participants, subject to clause 11.8.

11.8 At the Administrator's absolute discretion, the following amounts required to be distributed under clause 11.7 may instead be paid to the Australian Shareholders' Association:

- (a) if the total amount is less than \$20,000, the total amount; or
- (b) if the amount to be distributed to any individual Participant is less than \$100, that amount.

12. Immunity From Claims

12.1 The completion of distributions made pursuant to clause 11 (including distributions made by cheques that remain unrepresented for 120 days) shall satisfy any and all

rights, claims or entitlements of all Group Members in or arising out of the Proceeding.

- 12.2 Upon the release of the Settlement Amount and Interest from the Settlement Reserve Fund into the Settlement Distribution Fund, NAB and its Related Parties will be immune from all the Claims by all Group Members. NAB may plead this Settlement Scheme and the Settlement Deed to bar any claim or action (including a claim for costs) brought by any Group Member relating to the Claims.

13. Supervision By The Court

- 13.1 The Administrator may refer any issues arising in relation to the Settlement Scheme or the administration of the Settlement Scheme to the Court for determination.
- 13.2 Any costs incurred in any such reference to the Court made by the Administrator or the Administrator shall be deemed to be Administration Costs.

14. Notice

- 14.1 Any notice to be given pursuant to the Settlement Scheme shall be deemed given and received for all purposes associated with this Settlement Scheme if it is:
- (a) addressed to the person to whom it is to be given; and
 - (b) either:
 - (i) delivered, or sent by pre-paid mail, to that person's postal address (being, in respect of any Group Member, the current postal address recorded in the Administrator's Group Member records, as obtained from the Group Member's Registration Form, Group Member's retainer or funding agreement or directly from the Group Member);
 - (ii) sent by fax to that person's fax number (being, in respect of any Group Member, the current fax number recorded in the Administrator's Group Member records, as obtained from the Group Member's Registration Form, the Group Member's retainer or funding agreement or directly from the Group member) and the machine from which it is sent produces a report that states that it was sent in full; or
 - (iii) sent by email to that person's email address (being, in respect of any Group Member, the current email address recorded in the

Administrator's Group Member records, as obtained from the Group Member's Registration Form, the Group Member's retainer or funding agreement or directly from the Group Member) and a server through which it is transmitted produces a report that states that the email has been delivered to the inbox of that person.

- 14.2 A notice that complies with this clause 14 will be deemed to have been given and received:
- (a) if it was sent by mail to an addressee in Australia, two clear business days after being sent;
 - (b) if it is sent by mail to an addressee overseas, five clear business days after being sent;
 - (c) if it is delivered or sent by fax, at the time stated on the report that is produced by the machine from which it is sent; and
 - (d) if it is sent by email, at the time it is sent.
- 14.3 Where a Group Member is not a natural person and where one person has been nominated as the contact in respect of several Group Members, it is sufficient for the purpose of giving notice that any of the provisions of clause 14.2 are complied with in relation to that nominated person.
- 14.4 Maurice Blackburn Pty Ltd's address, fax number and email address shall be as set out below unless and until Maurice Blackburn Pty Ltd notifies the sender otherwise:
- NAB Class Action
Maurice Blackburn Pty Ltd
PO Box 13094
Law Courts VIC 8010

Email nabclassaction@mauriceblackburn.com.au

15. Time

- 15.1 The time for doing any act or thing under the Settlement Scheme may be extended by the Administrator in its absolute discretion.
- 15.2 The time for doing any act or thing under the Settlement Scheme may be extended by order of the Court.